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EXAMINER
SURVILLO, OLEG

ART UNIT	PAPER NUMBER
2142	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)	
Office Action Summary	10/644,270	ZIMMERMANN ET AL.	
	Examiner	Art Unit	
	OLEG SURVILLO	2142	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>December 18, 2007</u>.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1,2 and 4-21</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1,2 and 4-21</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on <u>19 August 2003</u> is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicants' submission filed on

December 18, 2007 has been entered.

Response to Amendment

2.   Claims 1, 2, 4-21 remain pending in the application. Claims 1, 4-6, 11, and 12 are

amended herein. Claim 3 is canceled. Claim 21 is new.

Response to Arguments

Regarding the rejection of claims 1 and 11 under 35 U.S.C. 112, second

paragraph as being indefinite, Applicants' arguments and amendments have been fully

considered and are persuasive. Therefore, the rejection has been withdrawn.

Regarding the rejection of claims 1 and 11 under 35 U.S.C. 102(e) as being

anticipated by Best, Applicants' arguments have been fully considered and are

persuasive. In particular, Applicants argued that: **"Best does not show updating the

status inside an IM application, rather in a separate database"**. This argument is

persuasive. Applicants also argued that: **"Best does not show or suggest *an***

Application Program Interface module for the IM application, communicatively coupled to the information interpretation module, for receiving the interpreted information and updating the IM application regarding the user. **In addition, Best does not show or suggest** *wherein the Application Program Interface is configured to update user's status on the IM application".* This argument is persuasive.

Regarding the rejection of claim 4 under 35 U.S.C. 103(a) as being unpatentable over Best in view of Mora, Applicants argued that: **"Best does not show or suggest providing status information in a buddy window of an IM application".** This argument is persuasive.

Therefore, the rejection of claims 1, 2, 9-12, 14, and 18 under 35 U.S.C. 102(e) and the rejection of claims 3-8, 13, 15-17, 19, and 20 under 35 U.S.C. 103(a) have been withdrawn. However, upon further consideration, new grounds of rejection are made in this Office action.

Claim Rejections - 35 USC § 112

3.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4.   Claim 20 recites the limitation "the method" in the claim. There is insufficient antecedent basis for this limitation in the claim. In particular, claim 20 (method claim) depends from claim 1 (system claim), wherein it appears that claim 20 should depend from claim 11 (also a method claim) in order to provide a sufficient antecedent basis.

For the purposes of examination, claim 20 is interpreted to depend from claim 11.

Appropriate correction is required in the next reply.

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

6.   Claims 1, 2, 4-6, 9-12, 14-16, 18, and 21 are rejected under 35 U.S.C. 103(a) as

being unpatentable over Best, JR. et al. (US 2005/0034147 A1) (hereinafter Best) in

view of Mora (US 2004/0162882 A1).

As to claim 1, the preamble has been given patentable weight since the claim

body refers back to the preamble. See "the IM application", "the user", and "the

multimedia information" at lines 1-2 of the claim body.

As to claim 1, Best shows a system [Fig. 2A] for [performing an action on] an

Instant Messaging (IM) application [in response to receiving a presence indication] (par.

[0029]), wherein the [performed action] is based on multimedia information [presence

indication], the system comprising:

an information capture module [presence detector (220)] that is capable of being

used for capturing the multimedia information in the vicinity of a machine on which the

user is using the IM application (par. [0009] l. 4-7, par. [0029] l. 21-25);

an information extraction and analysis module [visual identification logic] that is communicatively coupled with the information capture module (par. [0023] l. 14-16) and is capable of being used for extracting relevant information from the captured multimedia information (par. [0023] l. 13-19); and

an information interpretation module that is communicatively coupled with the information extraction and analysis module [presence detector instructions (216)] that are capable of being used for interpreting the extracted and analyzed information for the IM application to determine the presence of a user (par. [0028], par. [0009] l. 4-7), wherein the interpreted information is used for [directing a launch of] the IM application (par. [0029] l. 1-11).

Best does not show that the performed action in response to receiving a presence indicator is updating an IM application. In Best, the "performed action" is launching an IM application, in one embodiment, par. [0029] l. 1-11, and updating a presence database, in another embodiment, par. [0039].

Best also does not show determining a status of said user, wherein the interpreted information is used for updating the IM application to set forth said status of the user, and an Application Program Interface module for the IM application, communicatively coupled to the information interpretation module, for receiving the interpreted information and updating the IM application regarding the user when present, wherein the Application Program Interface module is configured to update the user's status on the IM application.

Mora shows updating an IM application regarding a user of the IM application
(par. [0024] l. 15-20, par. [0025] l. 1-2 and 18-22), wherein the updating is based on
multimedia information [user input event, PIM event, motion event] (Fig. 3).

Mora also shows determining a status of said user (par. [0020] l. 3-7, par.
[0027]), wherein the interpreted information [availability and presence information] is
used for updating the IM application to set forth said status of the user (par. [0031] l. 5-
17); and

an Application Program Interface module for the IM application [Messenger
Assistant] for receiving the interpreted information and updating the IM application
regarding the user when present [Messenger Assistant interfaces availability and
presence information with that users' instant messaging capabilities, automatically
indicates the users' availability state to others in real time] (par. [0020] l. 1-7, par. [0024]
l. 15-20, par. [0031] l. 5-17),

wherein the Application Program Interface module is configured to update the
user's status on the IM application (par. [0024] l. 15-20, par. [0025] l. 18-22, par. [0027]
l. 16-21, par. [0031] l. 5-17).

It would have been obvious to one or ordinary skill in the art at the time of the
invention to modify the system of Best by determining a status of the user and having
an Application Program Interface module of Mora that is configured to update the user's
status on the IM application in order to provide business associates with up to date
personal status on IM application automatically and in real time in response to receiving

availability and presence information of the user from various sources (par. [0012],

[0020] in Mora).

As to claim 2, Best shows that the multimedia information comprises at least one

of audio information, still image information, and video information (par. [0023] l. 15-16).

As to claim 4, Best in view of Mora shows that the user's status is updated in a

buddy window on the IM application (par. [0019], [0031] l. 5-17 in Mora).

As to claim 5, Best in view of Mora shows that the user's status comprises at

least one of available, busy, on the phone, and away from the desk (par. [0025] l. 7-9,

par. [0026] l. 7-9, par. [0027] l. 16-21 in Mora).

As to claim 6, Best in view of Mora shows that the Application Program Interface

module [Message Assistant] (par. [0020] l. 1-7 in Mora) is capable of being configured

to update the user's identity on the IM application [determining the identity of the user]

(par. [0023] l. 16-19, par. [0035] in Best).

As to claims 9 and 14, Best shows employing motion detection techniques for

extracting relevant information from the captured multimedia information for detecting

motion (par. [0022] l. 10-24).

As to claim 10, Best shows employing face recognition techniques for extracting relevant information from the captured multimedia information (par. [0023] l. 3-5 and 17-19).

As to claim 11, the preamble has been given patentable weight since the claim body refers back to the preamble. See "the captured multimedia information" at line 1, "the IM application" at line 4, and "said user" at line 5 of the claim body.

As to claim 11, Best shows a method [Fig. 2A] for [performing an action on] an Instant Messaging (IM) application [in response to receiving a presence indication] (par. [0029]) regarding a user based on captured multimedia information [presence indication], the method comprising:

receiving the captured multimedia information (par. [0028] l. 1-5) [wherein the multimedia information comprises video images] (par. [0023] l. 15-16);

extracting and analyzing relevant information from the captured multimedia information (par. [0023] l. 13-19);

interpreting the analyzed information for the IM application [determining whether computer should take any action based on at least in part on the received information] (par. [0028] l. 5-8) to determine the presence of a user (par. [0028], par. [0009] l. 4-7, [wherein the interpreted information is used for directing a launch of the IM application] (par. [0029] l. 1-11).

Best does not show that the performed action in response to receiving a presence indicator is updating an IM application. In Best, the "performed action" is

launching an IM application, in one embodiment, par. [0029] l. 1-11, and updating a

presence database, in another embodiment, par. [0039].

Best also does not show determining a status of said user when present,

providing the interpreted information to the IM application, and updating the IM

application based on the provided information to set forth said status of the user.

Mora shows updating an IM application regarding a user of the IM application

(par. [0024] l. 15-20, par. [0025] l. 1-2 and 18-22), wherein the updating is based on

multimedia information [user input event, PIM event, motion event] (Fig. 3).

Mora also shows determining a status of said user when present (par. [0020] l. 3-

7, par. [0027]), providing the interpreted information to the IM application (par. [0031] l.

5-17), wherein the interpreted information [availability and presence information] is used

for updating the IM application to set forth said status of the user (par. [0031] l. 5-17);

It would have been obvious to one or ordinary skill in the art at the time of the

invention to modify the method of Best by determining a status of the user when

present, providing the interpreted information to the IM application, and updating the IM

application based on the provided information to set forth said status of the user in order

to provide business associates with up to date personal status on IM application

automatically and in real time in response to receiving availability and presence

information of the user from various sources (par. [0012], [0020] in Mora).

As to claim 12, Best in view of Mora shows all the elements, as discussed per

claim 4, above.

As to claim 15, Best in view of Mora shows all the elements, as discussed per claim 6, above.

As to claim 16, Best in view of Mora shows all the elements, as discussed per claim 10, above.

As to claim 18, Best shows that updating is performed only after a user trigger [person approaching a computer (210) is detected by the presence detector (220) and GUI icon is changed in response to this user trigger] (par. [0028] and [0039]). It is being noted that even though Applicants consider "a user trigger" being "a detected gesture of the user to activate the status reporting feature" (see Reply filed on July 26, 2007 under Claim 18 arguments), no such limitation (gesture of the user) is being claimed, as per claim 18. As the result, "a user trigger" is being reasonably interpreted as "person approaching a computer" in Best reference. This interpretation is supported by the specification wherein it is stated: "... trigger events can include ... a user's approaching of the camera ..." (par. [0039] in the current specification).

As to claim 21, Best in view of Mora shows all the elements, as discussed per claims 1, 2, 4, and 5, wherein claim 21 includes all the elements of claim 1 with addition of:

said multimedia information including at least one of audio information, still image

information, and video information; (as discussed per claim 2)

wherein the user's status is updated in a buddy window on the IM application; (as

discussed per claim 4)

wherein the user's status comprises at least one of available, busy, on the

phone, and away from the desk. (as discussed per claim 5).

7.   Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Best, JR.

et al. in view of Mora in further view of Mastrianni et al. (US 2002/0114519 A1).

As to claim 7, Best in view of Mora shows all the elements except for logging out

a previous user, and logging in the user on the IM application.

Mastrianni shows that updating the user's identity comprises logging out a

previous user, and logging in the user [logging in the user at step (316) Fig. 3 and

logging out the user at step (320) Fig. 3 wherein the previous user is the user that was

previously logged in].

It would have been obvious to one of ordinary skill in the art at the time of the

invention to modify the system of Best in view of Mora by logging in and out the user in

order to update the user's identity when the user walks away from computing device at

step (320) in Mastrianni.

8.   Claims 8, 13, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Best, JR. et al. in view of Mora and in further view of Toyama (US 2006/0193494

A1).

As to claims 8 and 13, Best in view of Mora shows all the elements except for

employing face tracking techniques for tracking a face.

Toyama shows employing face tracking techniques for extracting relevant

information from the captured multimedia information for tracking a face (par. [0034] l. 1-

3, par. [0035]).

It would have been obvious to one of ordinary skill in the art at the time of the

invention to modify the system and method of Best in view of Mora by employing face

tracking techniques for extracting relevant information from the captured multimedia

information for tracking a face in order to determine if the user is looking at the monitor

and cease speech recognition if the user is turned away (par. [0035] in Toyama).

As to claim 19, Best in view of Mora shows all the elements except for the

captured multimedia information (multimedia data) includes audio data.

Toyama shows that multimedia data includes audio data [speech] (par. [0035] l.

11-19).

It would have been obvious to one of ordinary skill in the art at the time of the

invention to modify the method of Best in view of Mora by having the captured

multimedia information include audio data in order to capture user speaking while facing

the monitor (Toyama, par. [0035] l. 11-19).

9.   Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Best,

JR. et al. in view of Mora and in further view of Harris (US 7,202,798 B2).

        As to claim 17, Best in view of Mora shows that the status of said user comprises

whether said user is on the phone (par. [0019] I. 16 in Mora).

        Alternatively, Harris shows that the status of the user comprises whether said

user is on the phone (col. 5 lines 46-67 and col. 6 lines 1-13) [wherein a miniature

camera (605) takes a real time image of the user (610) and automatically recognizes

portable telephone use. Upon detecting a phone usage, a signal is sent to an attendant

notifying of phone usage by the user (610)].

        It would have been obvious to one of ordinary skill in the art at the time of the

invention to modify the method of Best in view of Mora by having the status of the user

comprise whether said user is on the phone in order to notify User B (in Best reference

or "attendant" in Harris reference) that User A (in Best reference or user (610) in Harris)

is on the phone (par. [0039] in Best, col. 6 lines 46-67 in Harris).

10.   Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Best,

JR. et al. in view of Mora and in further view of Johnson et al. (US 5,349,662).

        As to claim 20, Best in view of Mora shows that the status of said user being

indicated as busy if said user is detected to be engaged in one of the predetermined

appointment events (par. [0032] I. 1-12, Fig. 4B in Mora).

Best in view of Mora does not show that indication of status as busy is performed if said user is determined to be using a program other than IM or email.

Johnson shows determining if said user is using a program [a spreadsheet program] (col. 6 line 33) other than IM or email [User Activity Event Detection Process] (col. 6 lines 1-38, Fig. 2).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Best in view of Mora by having the indication of status as busy being performed if said user is determined to be using a program other than IM or email in order to properly indicate the user status corresponding to the user activity event such as invocation of a spreadsheet program.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OLEG SURVILLO whose telephone number is (571)272-9691. The examiner can normally be reached on M-Th 8:30am - 6:00pm; F 8:30am - 5:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on 571-272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

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For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Examiner: Oleg Survillo

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/Andrew Caldwell/
Supervisory Patent Examiner, Art Unit 2142